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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/707,212	11/26/2003	KENNETH M. LENKIEWICZ	71189-1557	1211

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MCGARRY BAIR PC  
171 MONROE AVENUE, N.W.  
SUITE 600  
GRAND RAPIDS, MI 49503

EXAMINER
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SNIDER, THERESA T

ART UNIT	PAPER NUMBER
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1744

DATE MAILED: 08/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/707,212

Applicant(s)

LENKIEWICZ ET AL.

Examiner

Theresa T. Snider

Art Unit

1744

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 26-29 is/are allowed.
- 6) ☒ Claim(s) 1,9-16,18-20,24 and 25 is/are rejected.
- 7) ☒ Claim(s) 2-8, 17 and 21-23 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 November 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>11/26/2003</u> . | 6) <input type="checkbox"/> Other: ____.  |

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to because in figure 15A '246' does not have a lead line and in figure 19 there are 2-'265's, directed to different elements. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because:

reference character "132" has been used to designate both impeller drive shaft[0049] and shell half[0049];

reference character "134" has been used to designate both brush drive shaft[0049] and shell half[0049];

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Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 262[0061].

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

4. The abstract of the disclosure is objected to because of the inclusion of legal phraseology; line 1, 'comprises'. Correction is required. See MPEP § 608.01(b).

5. The disclosure is objected to because of the following informalities:

Exemplary of such:

[0049], '122 A' should be replaced with '122. A';

'122.. A' should be replaced with '122. A'.

Appropriate correction is required.

### ***Claim Objections***

6. Claims 2-17, 21-25 and 27-29 are objected to because of the following informalities: claims 2-17, 21-25 and 27-29, line 1, 'A' should be replaced with 'The'. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 9-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Exemplary of such:

Claim 9, line 5, 'the agitation housing' lacks proper antecedent basis.

Claim 12, line 2, 'rotating' should be replaced with 'rotatable'.

Claim 13, line 2, 'the agitation housing' lacks proper antecedent basis.

Claim 15, line 2, 'mechanism' should be inserted after 'clutch';

Lines 2 and 3, 'motor' should be inserted after 'drive'.

***Claim Rejections - 35 USC § 102***

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

10. Claims 1, 16 and 19 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Karr et al..

Karr et al. discloses a housing having a front and rear portion (figs. 2-3, #22,48).

Karr et al. discloses a suction nozzle mounted to the housing (fig. 2, #40).

Karr et al. disclose an air-liquid separator (fig. 7, #236).

Karr et al. discloses a recovery tank in fluid communication with the nozzle (fig. 2, #34).

Karr et al. discloses a vacuum source (fig. 3, #58).

Karr et al. discloses a cleaning fluid supply tank (fig. 1, #32).

Karr et al. discloses a fluid distributor (fig. 3, #118).

Karr et al. discloses a rearwardly extending pocket to removably receive a recovery tank (fig. 2, #34).

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With respect to claims 16 and 19, Karr et al. discloses the vacuum source having a fan chamber defined in part by the housing (col. 3, lines 6-9).

11. Claims 1, 16, 19-20 and 24-25 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Kasper.

Kasper discloses a housing having a front and rear portion (fig. 2 #215,17).

Kasper discloses a suction nozzle mounted to the housing (fig. 2, #34).

Kasper disclose an air-liquid separator (fig. 3, #750).

Kasper discloses a recovery tank in fluid communication with the nozzle (fig. 3, #46).

Kasper discloses a vacuum source (fig. 2, #40).

Kasper discloses a cleaning fluid supply tank (fig. 3, #120).

Kasper discloses a fluid distributor (fig. 2, #100).

Kasper discloses a rearwardly extending pocket to removably receive a recovery tank (fig. 2, #34).

With respect to claims 16 and 19, Kasper discloses the vacuum source having a fan chamber defined in part by the housing (fig. 2, #510).

With respect to claim 20, Kasper discloses a liquid extraction cleaner with a cleaning fluid supply tank removably mounted to a recovery tank (fig. 3, #800,120,46). It would have been obvious to one of ordinary skill in the art to provide the fluid supply tank of Kasper in ASPA to allow for a more compact construction.

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With respect to claim 24, Kasper discloses the ability to remove the recovery tank from the housing with or without the cleaning solution tank attached thereto (fig. 3, #800,120,46).

With respect to claim 25, Kasper discloses the cleaning solution tank able to be removed from the recovery tank with the recovery tank mounted to the housing (fig. 3, #800,120,46).

### ***Claim Rejections - 35 USC § 103***

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

14. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any



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evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

15. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over The Admitted State of the Prior Art as recited in the Preamble of the Jepson Claim(hereafter ASPA) in view of Karr et al..

Karr et al. discloses a liquid extraction cleaner with a rearwardly extending pocket to removably receive a recovery tank (fig. 2, #34). It would have been obvious to one of ordinary skill in the art to provide the pocket of Karr et al. in ASPA to allow for the greatest ease in removing the tank from the housing.

16. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over The Admitted State of the Prior Art as recited in the Preamble of the Jepson Claim(hereafter ASPA) in view of Legatt et al..

Legatt et al. discloses a liquid extraction cleaner with a cleaning fluid supply tank and a recovery tank that have interengaging releasable fasteners (fig. 2, #42,44). It would have been obvious to one of ordinary skill in the art to provide the fasteners of Legatt et al. in ASPA to allow for secure engagement of the tanks to each other.

17. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over The Admitted State of the Prior Art as recited in the Preamble of the Jepson Claim(hereafter ASPA) in view of Shimko et al..

Shimko et al. discloses a liquid extraction cleaner with a vacuum source having a fan chamber defined in part by the housing (col. 4, lines 37-40). It would have been obvious to one of ordinary skill in the art to provide the chamber of Shimko et al. in ASPA to allow for a single housing rather than a housing for the cleaner and a housing for the fan for ease in manufacture.

18. Claims 1, 20 and 24-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over The Admitted State of the Prior Art as recited in the Preamble of the Jepson Claim(hereafter ASPA) in view of Kasper.

Kasper discloses a liquid extraction cleaner with a rearwardly extending pocket to removably receive a recovery tank (fig. 2, #34). It would have been obvious to one of ordinary skill in the art to provide the pocket of Kasper in ASPA to allow for the greatest ease in removing the tank from the housing.

With respect to claim 20, Kasper discloses a liquid extraction cleaner with a cleaning fluid supply tank removably mounted to a recovery tank (fig. 3, #800,120,46). It would have been obvious to one of ordinary skill in the art to provide the fluid supply tank of Kasper in ASPA to allow for a more compact construction.

With respect to claim 24, Kasper discloses the ability to remove the recovery tank from the housing with or without the cleaning solution tank attached thereto (fig. 3, #800,120,46).

With respect to claim 25, Kasper discloses the cleaning solution tank able to be removed from the recovery tank with the recovery tank mounted to the housing (fig. 3, #800,120,46).

19. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over The Admitted State of the Prior Art as recited in the Preamble of the Jepson Claim(hereafter ASPA) in view of Shimko et al..

Shimko et al. discloses a liquid extraction cleaner with a vacuum source having a fan chamber defined in part by the housing (col. 4, lines 37-40). It would have been obvious to one of ordinary skill in the art to provide the chamber of Shimko et al. in ASPA to allow for a single housing rather than a housing for the cleaner and a housing for the fan for ease in manufacture.

***Allowable Subject Matter***

20. Claims 26-29 are allowed.

21. Claims 2-8, 17 and 21-23 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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22. Claims 9-15 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

23. The following is a statement of reasons for the indication of allowable subject matter: the prior art discloses a removable cartridge having at least one rotatable agitation brush HOWEVER fails to disclose or fairly suggest the rotation direction of the brush is determined by the orientation of the cartridge in the housing.

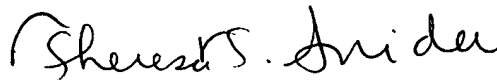
### ***Conclusion***

24. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Plankenhorn discloses a removable brush cartridge. Lenkiewicz et al. discloses a hand-held extraction cleaner. Bores et al. discloses a liquid extraction cleaner having the recovery tank mounted on the cleaning fluid supply tank. Giddings et al. discloses an extraction cleaner with a tank that uses fasteners to connect a tank to a housing. Duncan discloses an extraction cleaner where a recovery tank mounts onto a cleaning solution tank.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Theresa T. Snider whose telephone number is (571) 272-1277. The examiner can normally be reached on Monday-Friday (5:30am-2:00pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gladys Corcoran can be reached on (571) 272-1214. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

A handwritten signature in cursive script, appearing to read "Theresa T. Snider".

Theresa T. Snider  
Primary Examiner  
Art Unit 1744

8/8/2006